IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22971 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MOHINI VASUDEVBHAI PATEL - Petitioner(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR NIRAL R MEHTA for Petitioner(s) : 1,
MR NEERAJ SONI A.G.P. for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 06/09/2007

ORAL JUDGMENT

1. **RULE**. Mr. Neeraj Soni learned A.G.P., waives service of rule on behalf of the respondents. At the request of the learned advocates for the respective

parties, the matter is taken up for final hearing today itself.

2. The petitioner has approached this Court for obtaining appropriate writ, direction on respondent no. 2 to carry out the correction in the birth certificate. It is the say of the petitioner that she was born on 1st July, 1986. However, due to some mistake the date has been mentioned as 7th August, 1986 in the birth certificate. It is her say that in her school leaving certificate, the birth date is shown as 1st July, 1986. She, therefore, approached, respondent no. 2 with a request to carry out the correction, but the request was turned down on the ground that he did not have power to make any change in the birth certificate. Hence, this petition.

3. I have heard Mr. Niral Mehta learned advocate for the petitioner and Mr. Neeraj Soni, learned A.G.P., for the respondents. The learned advocate for the petitioner has furnished copy of the Notification dated 1st April, 1970 issued by the Panchayats and Health Department, whereby power is exercised under section 7 of the Registration of Births and Deaths Act and the different authorities mentioned therein have been appointed as Registrars for local area for the purpose of

the Act. Item no. 1 in the schedule states as under :-

> “1. Each Talati-cum-Village Panchayat Secretary of the Gram Panchayat for the local area comprising the area within the jurisdiction of the respective Gram Panchayat.”

3.1. Therefore, it is obvious that respondent – Talati-cum-Mantri is empowered to act as a Registrar under the Act and to make necessary correction in the birth record. Section 15 and Rule 11 of the Act read as under :-

“Section 15: Correction or cancellation of entry in the register of births and deaths.

> If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”

Rule 11 : Correction or cancellation of entry in the register of births and deaths :

1. If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed

by him and if the register is in his possession, the Registrar shall inquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in Section 15 of the Act and shall sent an extract of the entry showing the error and how it has been corrected to the District Registrar of Births and Deaths.

2. In the case referred to in sub rule (1) if the register is not in the possession the Registrar, he/she shall make a report to the District Registrar of Births and Deaths and call for the relevant register and after inquiring into the matter, if he is satisfied that any such error has been made,make the necessary correction.

3. Any such correction as mentioned in sub rule 2 shall be countersigned by the District Registrar of Births and Deaths when the register is received from the Registrar.

4. If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 of the Act upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

5. Notwithstanding anything contained in sub-rule (1) and sub-rule (4) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the District Registrar of Births and Deaths.

6. If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been made fraudulently or improperly, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf under Section 25 of the Act an on hearing from him take necessary action in the matter.

7. In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the

person who has given information under Section 8 or Section 9 of the Act.

3.2. Hence, the petitioner is directed to make necessary application to the concerned Talati-cum-Mantri for correction of their birth records within a month from the date of this order along with the necessary documents and upon receiving such application, the Talati shall take appropriate decision in accordance with law and on the basis of the documents that may have been produced before him, within a month thereafter. Decision shall be intimated to the petitioner within 15 days from the date of the decision.

4. With aforesaid directions, the petition stands disposed of. Rule is made absolute.

Direct Service is permitted.

[Akshay H Mehta, J.]

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